

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII
THE ESTATE OF ERIK A. POWELL,) Civil No.
THROUGH PERSONAL REPRESENTATIVE) CV04-00428LEK
MARY K. POWELL; THE ESTATE OF)
JAMES D. LAUGHLIN, THROUGH PERSONAL)
REPRESENTATIVE RAGINAE C. LAUGHLIN;))
MARY K. POWELL, INDIVIDUALLY;)
RAGINAE C. LAUGHLIN, INDIVIDUALLY;)
CHLOE LAUGHLIN, A MINOR, THROUGH)
HER NEXT FRIEND, RAGINAE C.)
LAUGHLIN,)
Plaintiffs,)
vs.)
CITY AND COUNTY OF HONOLULU,)
Defendant,)
and)
CITY AND COUNTY OF HONOLULU,)
Third-Party Plaintiff,)
vs.)
UNIVERSITY OF HAWAII, a body)
corporate; JOHN DOES 1-10, JANE)
DOES 1-10; DOE CORPORATIONS and)
DOE ENTITIES,)
Third-Party Defendants.)

DEPOSITION OF DANIEL NEVES
Taken on behalf of Plaintiffs at the Law Offices
of Ian L. Mattoch, 737 Bishop Street, Suite 1835,
Honolulu Hawaii, commencing at 2:00 p.m. on March
24, 2006, pursuant to Notice.

Before: WILLIAM T. BARTON, RPR, CSR NO. 391

EXHIBIT "13"

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1 Buchanan was not there that day. He was at 2 Waimanalo. 3 Q. What about Brandon? 4 A. Tim Brandon? I'm not sure. I don't 5 believe so. 6 Q. Shawn Chun was there that day? 7 A. Correct. 8 Q. At the very bottom of the row, under "On 9 Call," is that your name? 10 A. Correct. 11 Q. Neves? So you and Burgess were on call? 12 A. Yes. 13 Q. Back on July 19, 2002, do you remember 14 the types of signage that was used or posted at 15 Hanauma Bay by the beach? 16 A. Well, of course, like, you know, stuff 17 like Portuguese Man-O-Wars, jellyfish, strong 18 current, if need be. You know, just the regular 19 signs that we have. 20 Q. Who would decide which signs to put up? 21 A. Everybody down there, down at Hanauma 22 Bay would decide. 23 Q. After looking at the area and seeing 24 what needs to be posted? 25 A. Correct.	1 We're trying to pick out which ones, you 2 know, that look like they could have a heart 3 attack or looks like they did have a heart attack. 4 There are just so many things to look 5 for. I don't know where to start. 6 Q. Did you find that, through experience, 7 you were able to pinpoint some people more than 8 others? 9 A. I can't say that. Every one of the 10 lifeguards has their own special thing about them 11 that they're really good at. I'm no better than 12 they are. I'm just willing to stay in a place 13 they don't want to be in. 14 Q. Do you know whether the lifeguards ever 15 gave specific instructions about where people 16 could and couldn't swim in the bay? 17 MR. MAYESHIRO: Vague and ambiguous as 18 to time. Lacks foundation. Calls for 19 speculation. 20 A. I believe we did call up that day, and 21 we didn't -- we had the Toilet Bowl closed and the 22 Witches Brew closed. We had it fenced with like a 23 nylon. We pulled it across and stuck it in its 24 hole. 25 Q. You're talking about July 19, 2002,	
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1 Q. When you were on duty, did you mainly 2 sit at Tower 3 Alpha or 3 Bravo? 3 A. At that specific time, I was a lot at 3 4 Alpha. 5 Q. That was with Clarence Moses? 6 A. Correct. 7 Q. Why do you recall that specific time? 8 A. I was really training a lot at that 9 time. I was wanting a full-time position. 10 Q. And was 3 Alpha particularly challenging? 11 A. To anybody. It's a mental traumatic 12 place to be, if you're not mentally ready for it. 13 Q. Did you feel that you were mentally 14 ready for it? 15 A. I've always been ready for it. That's 16 why they stuck me there five days a week, as a 17 contract. 18 Q. So when you scanned the water for visual 19 patterns, what swimmers are doing, what types of 20 things do you look for as far as their skill 21 level? 22 A. Well, right away, when they come down 23 the bay, we are watching everybody. In the water, 24 coming down. We're not looking at them as people. 25 We're looking at them as a possible problem.	1 right, the day of the drownings? 2 A. Correct. And/or any day that we would 3 not think that it was proper to go out there. 4 Just because I can do it doesn't mean you guys can 5 do it. 6 We looked at what we thought people 7 couldn't do, and we decided that on our own. 8 Q. The lifeguards did? 9 A. Correct. 10 Q. And what precautions were you, as 11 lifeguards, able to take to prevent people from 12 swimming out in those areas? 13 A. A lot of blow horn, a lot of telling 14 people, Don't go past these buoys, don't go 15 over -- don't pass the reef. 16 There was nothing to see out there. On 17 those kinds of days, there's nothing. You can't 18 see -- you cannot see the bottom. 19 Q. Explain, if you could, the conditions on 20 that day. 21 A. It was God's miracle that Clarence Moses 22 and I seen him at all. 23 Q. And you're referring to the first man 24 that you saved? 25 A. That's correct.	